



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

January 28, 2009

REPLY TO THE ATTENTION OF:

LU-9J

Neal A. Frink  
Vorys, Sater, Seymour and Pease LLP  
221 East Fourth Street  
Suite 2000, Atrium Two  
P.O. Box 0236  
Cincinnati, OH 45201-0236

Re: American Can Building  
4101 Spring Grove Avenue  
Cincinnati, Ohio

Mr. Frink:

The U. S. Environmental Protection Agency has reviewed your change notice, dated June 11, 2008, which updated the original October 24, 2006 30-day notification of PCB remediation at the referenced facility. This change notice included additional, site-specific property ownership information and PCB use history at the facility. Based on this information, the EPA concurs that PCB releases at the facility likely occurred prior to April 18, 1978. Therefore, the EPA agrees with your notification that PCB remediation waste from the first floor of Building Nos. 2, 3, and 4 will be disposed off-site in accordance with TSCA requirements and the PCB remediation waste from floors 2, 3, 4, and 5 of Building No.4 will be managed in accordance with the Ohio EPA Voluntary Action Program (VAP) requirements. The Ohio EPA also notified the EPA of this change in a letter dated June 4, 2008. If you have any questions regarding this letter, please contact me at (312) 886-5909 or [Gmitro.Todd@epa.gov](mailto:Gmitro.Todd@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Gmitro", is located below the "Sincerely," text.

Todd Gmitro, Corrective Action Project Manager  
Corrective Action Section 1  
Remediation and Reuse Branch  
Land and Chemicals Division

cc: Amy Yersavich, Ohio EPA VAP

# VORYS

Vorys, Sater, Seymour and Pease LLP  
Legal Counsel

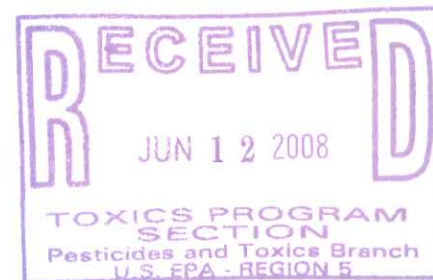
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June 11, 2008



## VIA FEDEX

Anton Martig, Chief  
Toxics Program Section – DT-8J  
USEPA Region 5  
77 West Jackson Boulevard  
Chicago IL 60604

Re: American Can Building  
4101 Spring Grove Avenue  
Cincinnati, Hamilton County, Ohio 45213

Dear Mr. Martig:

This Change Notice updates the 30-day Notification (“Notification”) submitted on October 26, 2006 for self-implementing cleanup of PCB impacts at the American Can Building property in Cincinnati, Ohio (“Site”). Under the self-implementing approach, the American Can Building, LLC (“Owner”) removed and disposed of impacted wood block flooring in accordance with TSCA requirements. Subsequent to removal of the wood block flooring, the Owner reviewed the history of ownership and use of the Site and determined that PCB releases likely occurred before 1978 and that there is no credible evidence of any PCB releases during or after 1978. This review is documented in the attached “Review of Ownership and Use of the American Can Building Property.”

Based on the pre-1978 determination, the Owner is submitting this Change Notice under 40 CFR §761.61(a)(3)(E)(ii) to notify the Regional Administrator of the following proposed changes in the original 30-day Notification: 1) the concrete subfloor on the first floor of the manufacturing buildings (Building Nos. 2, 3 and 4) will be removed, characterized as bulk remediation waste, and disposed off-site in accordance with TSCA requirements, and 2) the concrete subfloor on Floors 2, 3, 4, and 5 of Building No. 4 will be managed in place in accordance with Ohio Voluntary Action Program (VAP) standards. Amy Yersavich, the

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PO Box 1008  
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330.208.1000

Anton Martig

June 11, 2008

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Manager of the Ohio Voluntary Action Program, has been involved with this project and agrees that her program will ensure that the PCB remedy proposed for the property is fully implemented. This is documented in a letter from Ms. Yersavich, which is included in this submittal.

The Owner and its consultant maintain all required documentation, including sampling plans, sample collection procedures, sample preparation procedures, extraction procedures, and instrumental/chemical analysis procedures in the project files of the Certified Professional (CP) and/or the Certified Laboratory and all such files are available for EPA inspection upon request. In addition, under the Ohio VAP rules, data will be summarized in a No Further Action package prepared in support of cleanup of the Site under the Ohio VAP rules.

As I understand it, under 40 CFR §761.61(a)(3)(E)(ii), if Region 5 does not respond verbally within 7 calendar days and in writing within 14 calendar days of receiving the change notice, the Owner "may deem [the change notice] complete and acceptable and proceed with the cleanup according to the information in the change notice." Do not hesitate to call me if you have any questions or comments.

Thank you for your continued assistance on this project.

Very truly yours,

Neal A. Frink

NAF

Enclosures

cc: Ms. Amy Yersavich, Ohio EPA  
Ms. Christine Russell, Port of Greater Cincinnati Development Authority  
Mr. Steve Bloomfield, American Can Building, LLC

## **Review of Ownership and Uses of the American Can Building Property**

This assessment documents ownership and uses of the former American Can Company manufacturing facility located at 4101 Spring Grove Avenue, Cincinnati, Ohio ("Property"). The purpose of the assessment is to determine whether PCB impacts discovered at the facility arose from spills or releases that occurred before 1978. The assessment is based on review of the Phase I and Phase II Environmental Site Assessments for the Property, available public records, and interviews with persons knowledgeable in the history of uses of the Property.

### **Ownership and Uses of the Property Pre-1978**

#### **American Can Company – 1921 through 1963**

The American Can Company was a major manufacturer of tin cans, containers, and tin packages during the first half of the 20<sup>th</sup> century. The company owned manufacturing plants across the United States. For example, a plant they owned in nearby Hamilton, Ohio manufactured such items as "packers' lard cans and pails, butchers' lard cans and pails, candy, baking powder, and cracker cans, grease cans and pails, all styles and sizes of slip cover cans and pails, coffee, tea, and spice cans and pails, talcum and tooth powder boxes, shoe-polish and ointment boxes, and syrup cans."<sup>1</sup> The company dominated the market to the point that the federal government brought an unsuccessful anti-trust action in 1913 to dissolve the "Tin Can Trust."<sup>2</sup>

To meet the demand for machines and patterns for its manufacturing plants across the United States, the American Can Company purchased land to build a centralized "machine shop" in Cincinnati in 1919. On December 2, 1919, the American Can Company purchased land in Cincinnati's Northside neighborhood from Margaret F. Hackett for the sum of \$35,000.<sup>3</sup> Blue prints for the American Can Building dated May 26, 1920 depict the "American Can Co., Cincinnati Machine Shop" in substantially the same configuration as the buildings stand today.<sup>4</sup> The Sanborn Fire Insurance Map from 1937 identifies a building construction date of 1921.<sup>5</sup> For a period of nearly forty years, the Cincinnati Machine Shop designed and produced machines, molds, and patterns for American Can Company manufacturing facilities across the country.

The Cincinnati Machine Shop included four main buildings. Building No. 1 was the Services Building. The Services Building was originally a four-story building, later expanded to include a fifth story for additional office space. The various floors of the Services Building included a reception area, an infirmary/first aid area, and administrative offices; drafting and engineering offices; blueprint, photo, and records

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<sup>1</sup> Reported in the Daily Republican News, August 30, 1913.

<sup>2</sup> Article published in the New York Times, November 30, 1913.

<sup>3</sup> Hamilton County Deed Book 1212, Page 110.

<sup>4</sup> Original Blue Prints maintained by the current owner, The American Can Building, LLC.

<sup>5</sup> Reproduced by EDR, Inc. on May 30, 2003 for use in the report, "Phase I Site Assessment, Former American Can Company, 4101 Spring Grove Avenue," ATC Associates Inc., June 18, 2003, Appendix D.

storage/vaults; and a kitchen, private dining room, and 474-seat dining room for plant employees. The floors of the Services Building were generally tile over concrete. Each floor of the Services Building is about 12 feet in height.

Building No. 2 is a single-story, high-bay area that was equipped with overhead cranes. This area was used for final assembly of new machines and refurbishing existing heavy machines and equipment. Building No. 2 is located to the south of the central area used for shipping/receiving.

Building No. 3 is also a single-story high-bay area located to the north of the shipping/receiving area. Building No. 3 was used for steel storage and for the forge and casting operations. An oil room was located on the east end of Building No. 3 and six furnaces were located east of the oil room in an enclosed area designated as the "Hardening Department" for forming of molds for casting operations.<sup>6</sup>

Building No. 4 is the main manufacturing building. It includes five stories of open manufacturing space with approximately 14-foot high ceilings. The first floor of Building No. 4 has the same elevation as, and connects directly to, Building Nos. 2 and 3. Building No. 4 is connected indirectly to the Services Building (Building No. 1) through a connecting stairway. Because of the difference on ceiling heights, only the first floor of the Services Building and Building No. 4 share a common elevation.

The first floor of the main manufacturing building was used for machining of castings produced from the forges in Building No. 3. The upper floors of the manufacturing building were used primarily for completion of patterns and assembly of manufacturing equipment/machines. Operations on the fourth floor reportedly included assembly and refurbishing of electronic controls for the machinery, which may have included oil-filled capacitors.

The far north end of the factory housed the boiler room, a coal storage area, and above-ground tanks for fuel oil storage. The floors of Building Nos. 3 and 4 were 4-inch wood block floor over concrete subfloor. On Floors 2 through 5 of the manufacturing building, the concrete subfloor is approximately 9 inches thick. Wood block flooring was historically used in manufacturing buildings to reduce vibration and noise from operating machinery. Wood block floor also provides a safe working surface, absorbing fluids spilled or released during operations.

Likely sources of PCB contamination during use of the building by the American Can Company include: 1) oils used in mold preparation for castings, 2) hydraulic fluids used in heavy machinery, 3) PCBs in capacitors or dielectrics associated with electronic controls, and 4) PCBs in light ballasts used throughout the facility. This history of use matches well with the distribution of PCBs found during sampling of the buildings. The first floor had the highest impacts of PCBs with concentrations found in wood block flooring found in three locations at levels greater than 50 ppm (highest level found was 209 ppm). The fourth floor was the only other floor with significant PCB impacts, with

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<sup>6</sup> See ATC Phase I Site Assessment, 1937 Sanborn Map, and original blueprints, referenced above.

two samples of wood block flooring impacted at greater than 50 ppm (highest level found was 121 ppm). There were no PCB impacts found on Floors 2, 3 or 5 in excess of 50 ppm.

After forty years of operations, the American Can Company closed down operations at the Cincinnati Machine Shop and put the Property in a trust in 1963.<sup>7</sup> By 1965 the American Can Company had removed substantially all of its equipment from the Property. In 1963, the American Can Company was ranked 38<sup>th</sup> in revenues on the Fortune 500 List of American Corporations and employed over 46,000 employees worldwide. While other minor uses of the Property followed, none used the Property anywhere near as fully as the American Can Company.

### **Cleveland Automatic Machine and JL Lenz & Associates – 1963 through 1978**

On September 1, 1965, Lester S. Smith, Trustee, and his wife, Esther W. Smith, conveyed title to the property to 4101 Corporation, an Ohio Corporation.<sup>8</sup> The principal for the 4101 Corporation was John Lenz. John Lenz was also the principal for the two companies that were housed at the Property from 1963 until the late 1970s: Cleveland Automatic Machine Company (an Ohio Corporation) and JL Lenz & Associates (an unincorporated business).<sup>9</sup>

Beginning in 1966, Cleveland Automatic Machine conducted machining operations primarily on the first floor of Building Nos. 2, 3 and 4. When Lenz purchased the property, substantially all of the American Can Company equipment had been removed from the Property. Cleveland Automatic Machine is identified in the City Directory listing for 1966, 1971, and 1975 for the Property. Cleveland Automatic Machine was substantially out of business by the late 1970s; its corporate charter was cancelled by the State Tax Department in May 1980. JL Lenz & Associates, identified as a seller of hose fittings, was listed on historic City Directories for the years 1971 and 1975. Both of these businesses had ceased operations at the Property by 1978. While Lenz continued to own the Property through the 4101 Corporation until 2005, by the late 1970s he had consolidated his machining business in Dayton, Ohio, under the name Lenz, Incorporated.

### **Ownership and Uses of the Property Post-1978**

In approximately 1983, Enderle & Chipman Machining Company moved its machining business into Building No. 4. Enderle & Chipman operations were initially located on the second floor of the building. In 1987 Chipman spun off to form its own business. At that time, Enderle moved the operations of the Enderle Machining Company to the first floor of the building. The historic City Directory shows Chipman/Enderle Machining at the property in 1987, 1993, 1998, and 2002. According

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<sup>7</sup> On January 7, 1963, the American Can Company sold the property for one dollar and other good and valuable consideration to Lester S. Smith, Trustee. Hamilton County Deed Book 3206, Page 546,

<sup>8</sup> Hamilton County Deed Book 3438, Page 664

<sup>9</sup> Based on City Directory listings in the ATC Phase I report and information from Ohio Secretary of State.

to Mr. Enderle, the equipment used by both Enderle and Chipman used water-based coolants for machining.<sup>10</sup>

Mr. Enderle is familiar with the Property as both a tenant and as a property manager for the Property owner, Mr. John Lenz. In his role as property manager, Mr. Enderle became familiar with the history and uses of the Property. In his attached affidavit, Mr. Enderle states that he is unaware of any uses of PCBs or releases of oils or fluids potentially contaminated with PCBs at the Property.

Airvec Systems Inc. was incorporated in Ohio in 1990. Airvec moved into the property in April of 1992 and occupied approximately 13,000 square feet of space. Airvec merged with Custom Metals, Inc., a Kentucky Corporation, in 1997. Airvec is a factory representative for a variety of manufacturers of air handling equipment and ran a metal fabrication shop to support its projects/clients. Airvec shows up on the City Directory listings at the Property in 2002. Airvec moved out of the Property in the first quarter of 2006. There is no basis for concern regarding PCBs associated with Airvec operations in their fabrication shop, which primarily involved sheet metal operations (e.g., bending and fabrication).

For a short period of time, the De Tales Printing Unlimited, Inc. had a presence at the property. De Tales was incorporated in Ohio in 1984 and manufactured imprinted garments. De Tales shows up on the City Directory Listings for the Property in 1987. De Tales was cancelled by the Ohio Secretary of State with notice from the Tax Department. There should be no concern for PCBs associated with mid-1980s printing operations.

Space Maker Hauling and Transferring, Inc. rented space at the Property for temporary storage of commercial equipment including restaurant, office, signage, and carnival equipment. Space Maker was incorporated in Ohio in 2002. Space Maker exited the Property in early 2006. Based on the nature of the Space Maker business (passive storage), the types of equipment they stored (commercial versus industrial), and their short period of occupancy, there is no concern regarding PCB releases associated with Space Maker operations.

In addition to the uses described above, there were additional miscellaneous uses of the Property post-1978. Space was rented for use as artists' lofts (Voss Finn, Ana England, Steven Finke), a masonry contractor (Brian Campbell), and for storage for local companies (e.g., Trinity Packaging Associates and Superior Chevrolet). None of these relatively low-impact uses raise any concerns regarding post-1978 PCB releases.

## **Conclusion**

Based on review of all available information regarding history and use of the Property, any PCB impacts likely arose from pre-1978 conduct. There is no credible evidence of any PCB releases or spills on the Property during or after 1978.

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<sup>10</sup> See affidavit of Mr. Robert Enderle.



**AFFIDAVIT OF ROBERT ENDERLE**

STATE OF OHIO                     )  
  )  
COUNTY OF Hamilton            )

Being duly sworn, the undersigned Robert Enderle does hereby give the following statement as his affidavit:

1) My name is Robert Enderle and I reside at 4627 Stepping Stone Drive, Mason, Ohio 45040. I worked for the Enderle Machining Company (formerly known as Enderle & Chipman Machining Company, Inc.) from approximately 1977 through 2002. The Enderle & Chipman Machining Company was initially located at 3253 Spring Grove Avenue, in Cincinnati, Ohio, which is about 3 minutes from the American Can Company building. Beginning in the early 1980s, Enderle & Chipman Machining leased space from the 4101 Corporation at the former American Can Company building at 4101 Spring Grove Avenue, Cincinnati, Ohio ("Property").

2) The Enderle & Chipman Machining Company first located its operations at the Property on the 2<sup>nd</sup> floor. In 1987, the Chipmans (David and David, Jr.) started their own company (Chipman Machining Company) and Enderle Machining moved operations to the first floor of the Property. Both the Enderle and Chipman companies used water soluble machining and cutting fluids in their operations. None of the machining equipment used by Enderle or Chipman contained PCBs.

3) In addition to working for Enderle & Chipman, I managed the Property on behalf of the property owner, 4101 Corporation. I took over the property management role from an employee of the Cleveland Automatic Machine Company. During transition of responsibilities as property manager, I became knowledgeable in the history and use of the Property, learning about the Property layout, utilities, mechanicals, and prior operations at the Property. When the American Can Company sold the Property in the early 1960s, they removed all of their equipment and machines. Cleveland Automatic Machine operated at the Property on a much smaller scale than American Can Company and used only water-soluble coolants and cutting fluids.

4) In my role as property manager, I also became familiar with the operations of other businesses that rented space at the Property. These businesses rented space for such uses as artist studios, storage, tee-shirt printing, and custom packaging. I am not aware of operations at the Property that used working fluids containing PCBs or that otherwise used or handled PCBs. I am not aware of any spills or releases at the Property of materials that may have been contaminated with PCBs. Based on my knowledge of the Property, no such releases would have occurred any time in 1978 or thereafter.

FURTHER AFFIANT SAITH NOT.

Subscribed and sworn to before me  
this 6 day of June, 2008.

Kimberly M. Schon

Notary Public, Hamilton County, OH  
My Commission Expires: Feb. 22, 2010

Robert E. Enderle  
Robert E. Enderle

m  
RML

KIMBERLY M. SCHON  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
February 22, 2010